

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

FRANK HEARRING,

Plaintiff,

v.

RICHARD SNYDER, *et al.*,

Defendants.

Case No. 3:20-CV-0049-ART-CLB

**ORDER DENYING MOTION TO SHOW
CAUSE TO PROCEED WITH ALL
DEFENDANTS**

[ECF No. 34]

Plaintiff Frank Hearing (“Hearing”) filed a form ‘notice of motion’ to show good cause to proceed with all said Defendants/Respondents. (ECF No. 34.) Pursuant to General Order 2021-05, Section 3(d), parties must not file ‘notices’ or ‘letters’ with the Court. Improperly filed ‘notices’ or ‘letters’ will be stricken from the docket. The Clerk of Court construed this document as merely a notice and filed it as such. However, Defendants construed it as a motion and filed an opposition. Therefore, the Court will treat this document as a motion.

By this motion, Hearing asks that the Court proceed against two unserved Defendants in this case, Ronald Schreckengost (“Schreckengost”) and Richard Snyder (“Snyder”). The Court will address each of these Defendants in turn.

1. Ronald Schreckengost

The Office of the Attorney General (“AG”) did not accept service on behalf of Schreckengost as he is no longer an employee of the Nevada Department of Correction and has not requested representation. (ECF No. 15.) The AG did file the last known address for Schreckengost under seal. (ECF No. 16.) Thereafter, the Court ordered the U.S. Marshal (“USM”) to attempt service of process. (ECF No. 20.) The summons was returned unexecuted by the USM with a note that states “spoke to resident/owner – no Ronald Schreckengost there.” (ECF No. 30.)

The Court then issued a notice of intent to dismiss Schreckengost, without

1 prejudice, for failure to complete service of process pursuant to Fed. R. Civ. P. 4(m). (ECF
2 No. 32.) Following the issuance of the 4(m) notice, Herring filed a motion for waiver of
3 service of Schreckengost which the Court denied. (ECF No. 35.) Herring's current
4 motion essentially requests the same relief – that the Court proceed with Defendant
5 Schreckengost without proper service – and is **DENIED**. (ECF No. 34.) The Court will
6 issue a report and recommendation dismissing Schreckengost from this action without
7 prejudice.

8 **2. Richard Snyder**

9 Richard Snyder died on June 20, 2021. (ECF No. 38 at 3.) Richard Snyder has no
10 estate. (*Id.*) If Herring believes he has any right to substitute a party under to Fed. R.
11 Civ. P. 25, he may file a motion on or before **September 5, 2022**, otherwise Snyder must
12 be dismissed. Therefore, Herring's motion as Snyder is also **DENIED**. (ECF No. 34.)

13 **IT IS SO ORDERED.**

14 **DATED:** June 15, 2022.

15 
16 **UNITED STATES MAGISTRATE JUDGE**